IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

GIFT TAX REFERENCE Nos 17, 19, 20, 21, 25 & 29 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF GIFT TAX
Versus
KARTIKEYA SARABHAI
MRINALINI V.SARABHAI
ANAND SARABHAI
SUHRID SARABHAI
GIRA SARABHAI
GAUTAM SARABHAI

Appearance:
MR MANISH R BHATT for Applicant
MR RK PATEL FOR MR KC PATEL for Respondent.

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 06/09/2001

COMMON JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In these references at the instance of the revenue, the following questions have been referred for our opinion in respect of the assessment year 1976-77:-

1 "Whether, the Appellate Tribunal has not erred in law and on facts in holding that the full value of the property for which the power of appointment was exercised by the assessee in favour of certain trusts could not be taken for the purpose of Gift tax but only the value of the assessee's interest therein with reference to the date of transfer has only to be taken ?"

2 "Whether, the Appellate Tribunal has not erred in law and on facts in holding that since there was no difference between the value of the shares and the value of jewellery, there was no deemed gift within the meaning of section 4(1)(c) of the Gift-tax Act,1958 ?"

3 "Whether, the finding of the Appellate Tribunal that on the facts which were peculiar in the instant case the value of Athe jewellery and the value of the shares was required to be treated as equal and hence there was no question of adopting any other method for the purpose of valuation and for bringing to tax the difference on any basis ?"

2 We have heard Mr.M.R.Bhatt for the revenue and Mr.R.K.Patel for the assessee. Learned Counsel for the parties fairly state that the questions raised hereinabove are squarely decided by this Court today in Gift Tax Reference No.16 of 1986. Following the said decision, we answer these questions in favour of the assessee and against the revenue.

3 The References are accordingly disposed of with no order as to costs.

Sd/- Sd/-
(M.S.Shah,J) (D.A.Mehta,J)

m.m.bhatt